

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NOELLE EPPS-MILTON,

Plaintiff,

v.

GENESEE INTERMEDIATE SCHOOL
DISTRICT, AIMEE PHILLIPS, GLORIA
BOURDON, LISA HAGEL, GRETCHEN
STETLER, MICHAEL MOORMAN,
MARY BEHM, MELINDA MCGRAW,
and GISD BOARD OF EDUCATION,

Defendants.

Case No. 14-11861

Hon. Patrick J. Duggan

**ORDER DENYING DEFENDANTS' MOTION FOR DISMISSAL
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(b)**

Plaintiff Noelle Epps-Milton, a *pro se* litigant, initiated this employment discrimination action against her employer, the Genesee Intermediate School District (“Genesee ISD”), as well as seven Genesee ISD employees (the “Individual Defendants”) – each of whom is sued in their individual and official capacities – and the Genesee ISD Board of Education (collectively, “Defendants”) alleging various transgressions of both state and federal law. Defendants collectively filed a motion seeking dismissal of each cause of action in Plaintiff’s Complaint, which the Court granted in part and denied in part in an Opinion and

Order dated November 10, 2014. The sole remaining cause of action is Plaintiff's claim of race discrimination pursuant to 42 U.S.C. § 1981.

Approximately one month after the Court issued its November Opinion and Order, Defendants moved to extend discovery, which the Court granted. The Court entered an amended scheduling order, setting a discovery due date of March 31, 2015 and a motion cut-off date of April 15, 2015.

On March 3, 2015, Defendants filed the motion presently before the Court. In this motion, Defendants ask the Court to dismiss Plaintiff's case pursuant to Rule 41(b), which authorizes the involuntary dismissal of an action "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order[.]" Fed. R. Civ. P. 41(b). In their motion, Defendants contend that dismissal is proper because Plaintiff has not filed a witness list or provided any initial disclosures pursuant to Federal Rule of Civil Procedure 26. Further, although a deposition was scheduled over one month in advance, Plaintiff cancelled a few days before it was set to occur.¹

Plaintiff responded to Defendants' motion on March 13, 2015. In her response, Plaintiff indicates that she has been "gathering the information requested by the defendants' attorney" and "researching the proper way to submit the multiple records I have[.]" (Pl.'s Resp. 2.) Plaintiff further requests an extension

¹ It appears that this deposition has been rescheduled for March 26, 2015.

of time, presumably an extension of the dates set forth in the amended scheduling order. (*Id.*)

Defendants replied to Plaintiff's response on March 17, 2015, urging the Court to dismiss the action. In the alternative, Defendants ask for a deadline extension to enable the parties to complete discovery and file summary judgment motions.

The Court is not inclined to grant Defendants' motion to dismiss at this time. Plaintiff is representing herself in this action, and the Court is mindful of such. However, the Court takes note of Defendants' expressed concerns regarding Plaintiff's lackluster participation in the prosecution of this action. Plaintiff should consider herself on notice that she must participate in discovery in accordance with the Federal Rules of Civil Procedure or risk dismissal of her case.

In order to ensure that the parties have adequate time to complete discovery and submit dispositive motions, the Court will amend the current scheduling order.

Accordingly,

IT IS ORDERED that Defendants' motion is **DENIED**.

Dated: March 20, 2015

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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